



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*United States District Courthouse
300 Quarropas Street
White Plains, New York 10601*

January 6, 2020

BY CM/ECF and ELECTRONIC MAIL

The Honorable Kenneth M. Karas
United States District Judge
Southern District of New York
300 Quarropas Street
New York, New York 10601

**Re: *United States v. Simon Goldbrener, et al.*,
18 Cr. 614 (KMK)**

Dear Judge Karas:

The Government writes, with the consent of defense counsel for all defendants, respectfully to request that the Court order the exclusion of time in this case under the Speedy Trial Act from today through January 27, 2020.

By way of background, the parties last appeared before the Court on July 10, 2019. On that day, the Court set a motion schedule, whereby the defendant's pretrial motions—if any—would be due on November 25, 2019. (Docket Entry 51 at 4–5). That same day, the Court prospectively excluded time under the Speedy Trial Act, without defense objection:

Okay, then I'll prospectively exclude time from today until November 25th of this year under the Speedy Trial Clock, finding it's in the interest of justice to do so. That finding is based on the fact that counsel need time to prepare the motions, at least one attorney is going to have some availability issues from now until November 25th, and also there are the holidays which would intervene in the ability to prepare the motions any earlier. So I therefore find that the interests of justice from this exclusion outweigh the defendants' and the public's interest in a speedy trial. The finding is made pursuant to U.S.C., Section 3161(h)(7)(A).

(Docket Entry 51 at 6).

Since that time, the parties have all been engaging in good-faith plea discussions. In order to facilitate those discussions, and in order to allow the defendants to prepare motions, if any, to the extent that there are not dispositions, the defendants

Hon. Kenneth M. Karas

January 6, 2020

Page 2 of 2

(with the Government's consent) have thrice requested adjournments of their motion schedule, which requests this Court has granted. (Docket Entries 57–60, 64–65). Accordingly, the defendant's pretrial motions are now due on January 27, 2020. (Docket Entry 65).

Additionally, on December 23, 2019, defendant Ben Klein filed his pretrial motions. (Docket Entry 63).

Unfortunately, the parties inadvertently neglected to ask the Court to exclude time pursuant to the Speedy Trial Act. Accordingly, time was not excluded pursuant to the so-called "ends-of-justice" provision. 18 U.S.C. § 3161(h)(7)(A). Time began to be excluded under the Speedy Trial Act on December 23, 2019, when Ben Klein filed his pretrial motions, pursuant to 18 U.S.C. § 3161(h)(1)(D) (automatically excluding any "delay resulting from any pretrial motion" *See also United States v. Nixon*, 779 F.3d 126, 130 (2d Cir. 1985) (explaining that "delay attributable to a codefendant is excludable speedy trial time as to all defendants.")).

Although time is currently being excluded pursuant to Section 3161(h)(1)(D), if Ben Klein's motion is withdrawn or resolved, or if Ben Klein disposes of his case, the clock will again begin to run. Accordingly, as a precaution, the Government respectfully requests that the Court order the exclusion of time in this case under the Speedy Trial Act from today through January 27, 2020, because, among other things, it will allow the parties to continue to discuss potential dispositions and the defendants to review voluminous discovery and prepare pretrial motions. I have attached a proposed order excluding time. I have communicated with all defense counsel, who do not object to such an exclusion.

Please feel free to contact me with any questions or issues.

Respectfully submitted,

GEOFFREY S. BERMAN

United States Attorney

By:



Michael D. Maimin

Assistant United States Attorney

(914) 993-1952

cc: All counsel (via CM/ECF and electronic mail)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

SIMON GOLDBRENER,
a/k/a “Simon Goldbrenner,”
a/k/a “Shimon Goldbrenner,”
PERETZ KLEIN,
SUSAN KLEIN,
a/k/a “Suri Klein,”
BEN KLEIN,
a/k/a “Benzion Klein,”
a/k/a “Benzi Klein,”
MOSHE SCHWARTZ,
SHOLEM STEINBERG, and
ARON MELBER,
a/k/a “Aharon Melber,”

Defendants

ORDER

18 Cr. 614 (KMK)

Upon the application of the United States of America, by and through Geoffrey S. Berman, United States Attorney for the Southern District of New York, and Michael D. Maimin, Assistant United States Attorney:

WHEREAS, on July 10, 2019, this Court had set a motion schedule, whereby pretrial defense motions would be due on November 25, 2019; and

WHEREAS, on July 10, 2019, this Court excluded time to and including November 25, 2019, pursuant to the Speedy Trial Act, finding that the ends of justice served by granting a continuance outweighed the best interests of the public and the defendants in a speedy trial; and

WHEREAS, this Court—at the defendants’ request, and with the consent of the Government—adjourned the motion schedule, in order to allow the parties to engage in discussions of potential pretrial dispositions, and to allow the defendants to review discovery and prepare pretrial motions, so that the defendants’ pretrial motions are now due no later than January 27, 2020; and

WHEREAS, BEN KLEIN, a/k/a “Benzion Klein,” a/k/a “Benzi Klein,” the defendant, filed pretrial motions on December 23, 2019, thus causing time to be excluded under the Speedy Trial Act, pursuant to 18 U.S.C. § 3161(h)(1)(D); and

WHEREAS, the ends of justice served by granting a continuance outweigh the best interests of the public and the defendants in a speedy trial, because it allows the Government and the defendants to continue to discuss potential dispositions and the defendants to review voluminous discovery and prepare pretrial motions;

IT IS HEREBY ORDERED that the time between and including January 6, 2020, and January 27, 2020, is hereby excluded under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A), in the interests of justice.

Dated: New York, New York
January __, 2020

THE HONORABLE KENNETH M. KARAS
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF NEW YORK